

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JAYNE WEBER,**

**Defendant.**

**CASE NO. 8:08CR209**

# MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's motion to renew and for reconsideration of the Defendant's prior letter-request for authorization for psychiatric services and request for judicial notice (Filing No. 53). The Court takes judicial notice of attachments 54-3 and 53-6 to the motion (relevant excerpts from the Diagnostic and Statistical Manual of Mental Disorders, Fourth ed., at xxiii & 417-18). The Court has considered attachments 54-1, 54-2, 54-4, and 54-5.

The Defendant pleaded guilty to Count I of the Indictment charging her with a violation of 18 U.S.C. § 1343. Despite conflicting information in the record (Filing Nos. 7, 21), defense counsel is appointed.

Defense counsel represents that since his initial request<sup>1</sup> the psychiatrist in question, Dr. Bruce Gutnik, has revised his estimated cost for an evaluation from \$2,000.00 to \$1,500.00. The newly estimated cost falls within the limit that this Court may approve. In light of the newly estimated cost and the information submitted by counsel (Filing No. 54), the motion to renew and reconsider is granted. The request to hire an

<sup>1</sup>The request for \$2,000.00 was made in a letter dated May 7, 2009. The Court denied the request in a letter dated May 8, 2009.

expert, Dr. Gutnik, is approved for up to \$1,500.00. 7 *Guide to Judiciary Policies and Procedures*, Ch. 3, Part A, § 3.02.

In so deciding, the Court notes its continued concern, however, with the Defendant's ability to remain eligible for appointed counsel in light of the most recently submitted financial affidavit. However, the Court's guidelines state that "any doubts as to a person's eligibility should be resolved in [her] favor." 7 *Guide to Judiciary Policies and Procedures*, Ch. 2, Part A, § 2.04. Nevertheless, the Court advises the Defendant that at sentencing it may consider the information in the Presentence Investigation Report, any fine or restitution imposed, and other available information regarding the Defendant's financial condition, in determining whether to order the Defendant to reimburse any or all CJA funds expended for her representation and defense.

IT IS ORDERED:

1. The Defendant's motion to renew and for reconsideration of the Defendant's prior letter-request for authorization for psychiatric services and request for judicial notice (Filing No. 53); is granted;
2. The request for an evaluation by Dr. Bruce Gutnik is approved for up to \$1,500.00; and
3. Defense counsel is directed to submit a new CJA Form 21 to the Court showing the revised amount.

DATED this 19<sup>th</sup> day of June, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge